

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

OSCAR J. CHAPMAN,

Plaintiff,

v.

CIVIL ACTION NO. 2:23-cv-00422

STATE OF WEST VIRGINIA, et al.,

Defendants.

ORDER

Pending before the Court is Plaintiff's Application to Proceed Without Prepayment of Fees and Costs, (ECF No. 1) and a "Notice of Intent to Sue," which the Court has construed as a civil complaint alleging excessive force under 42 U.S.C. § 1983, (ECF No. 2). By Standing Order entered on January 4, 2016, (ECF No. 5), this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings and a recommendation for disposition ("PF&R"). Magistrate Judge Tinsley filed his PF&R on May 9, 2024, recommending that this Court dismiss this matter for failure to prosecute because Plaintiff failed to complete a new Application to Proceed Without Prepayment of Fees and Costs, which was due on November 13, 2023. (ECF No. 11.)

This Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review. 28 U.S.C. § 636(b)(1); *see also Snyder*


v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a *de novo* review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982).

Objections to the PF&R were due on May 23, 2024. (ECF No. 11). Plaintiff has not filed any objections to the PF&R, thereby waiving *de novo* review of Magistrate Judge Tinsley’s PF&R. Accordingly, the Court **ADOPTS** the PF&R, (*id.*), and **DISMISSES** the action **WITHOUT PREJUDICE**.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: June 17, 2024

A handwritten signature in blue ink, appearing to read 'Thomas E. Johnston', is written over a horizontal line.

THOMAS E. JOHNSTON, CHIEF JUDGE